

## § 668.21

## 34 CFR Ch. VI (7–1–12 Edition)

(2) The educational level of instruction provided in the noncredit or reduced credit remedial course is below the level needed to pursue successfully the degree or certificate program offered by that institution after one year in that remedial course; or

(3) Except for a course in English as a second language, the educational level of instruction provided in that course is below the secondary level. For purposes of this section, the Secretary considers a course to be below the secondary level if any of the following entities determine that course to be below the secondary level:

(i) The State agency that legally authorized the institution to provide postsecondary education.

(ii) In the case of an accredited or preaccredited institution, the nationally recognized accrediting agency or association that accredits or preaccredits the institution.

(iii) In the case of a public postsecondary vocational institution that is approved by a State agency recognized for the approval of public postsecondary vocational education, the State agency recognized for the approval of public postsecondary vocational education that approves the institution.

(iv) The institution.

(f) Except as set forth in paragraph (f) of this section, an institution may not take into account more than one academic year's worth of noncredit or reduced credit remedial coursework in determining—

(1) A student's enrollment status under the title IV, HEA programs; and

(2) A student's cost of attendance under the campus-based, FFEL, and Direct Loan programs.

(e) One academic year's worth of noncredit or reduced credit remedial coursework is equivalent to—

(1) Thirty semester or 45 quarter hours; or

(2) Nine hundred clock hours.

(f) Courses in English as a second language do not count against the one-year academic limitation contained in paragraph (d) of this section.

(Authority: 20 U.S.C. 1094)

[52 FR 45724, Dec. 1, 1987, as amended at 56 FR 36698, July 31, 1991; 58 FR 32202–32203, June 8, 1993; 63 FR 40624, July 29, 1998]

### **§ 668.21 Treatment of title IV grant and loan funds if the recipient does not begin attendance at the institution.**

(a) If a student does not begin attendance in a payment period or period of enrollment—

(1) The institution must return all title IV, HEA program funds that were credited to the student's account at the institution or disbursed directly to the student for that payment period or period of enrollment, for Federal Perkins Loan, FSEOG TEACH Grant, Federal Pell Grant, ACG, and National SMART Grant program funds; and

(2) For FFEL and Direct Loan funds—

(i)(A) The institution must return all FFEL and Direct Loan funds that were credited to the student's account at the institution for that payment period or period of enrollment; and

(B) The institution must return the amount of payments made directly by or on behalf of the student to the institution for that payment period or period of enrollment, up to the total amount of the loan funds disbursed;

(ii) For remaining amounts of FFEL or Direct Loan funds disbursed directly to the student for that payment period or period of enrollment, including funds that are disbursed directly to the student by the lender for a study-abroad program in accordance with § 682.207(b)(1)(v)(C)(I) or for a student enrolled in a foreign school in accordance with § 682.207(b)(1)(v)(D), the institution is not responsible for returning the funds, but must immediately notify the lender or the Secretary, as appropriate, when it becomes aware that the student will not or has not begun attendance so that the lender or Secretary will issue a final demand letter to the borrower in accordance with 34 CFR 682.412 or 34 CFR 685.211, as appropriate; and

(iii) Notwithstanding paragraph (a)(2)(ii) of this section, if an institution knew that a student would not begin attendance prior to disbursing FFEL or Direct Loan funds directly to the student for that payment period or period of enrollment (e.g., the student notified the institution that he or she

would not attend, or the institution expelled the student), the institution must return those funds.

(b) The institution must return those funds for which it is responsible under paragraph (a) of this section to the respective title IV, HEA program as soon as possible, but no later than 30 days after the date that the institution becomes aware that the student will not or has not begun attendance.

(c) For purposes of this section, the Secretary considers that a student has not begun attendance in a payment period or period of enrollment if the institution is unable to document the student's attendance at any class during the payment period or period of enrollment.

(d) In accordance with procedures established by the Secretary or FFEL Program lender, an institution returns title IV, HEA funds timely if—

(1) The institution deposits or transfers the funds into the bank account it maintains under § 668.163 as soon as possible, but no later than 30 days after the date that the institution becomes aware that the student will not or has not begun attendance;

(2) The institution initiates an electronic funds transfer (EFT) as soon as possible, but no later than 30 days after the date that the institution becomes aware that the student will not or has not begun attendance;

(3) The institution initiates an electronic transaction, as soon as possible, but no later than 30 days after the date that the institution becomes aware that the student will not or has not begun attendance, that informs an FFEL lender to adjust the borrower's loan account for the amount returned; or

(4) The institution issues a check as soon as possible, but no later than 30 days after the date that the institution becomes aware that the student will not or has not begun attendance. An institution does not satisfy this requirement if—

(i) The institution's records show that the check was issued more than 30 days after the date that the institution becomes aware that the student will not or has not begun attendance; or

(ii) The date on the cancelled check shows that the bank used by the Sec-

retary or FFEL Program lender endorsed that check more than 45 days after the date that the institution becomes aware that the student will not or has not begun attendance.

(Authority: 20 U.S.C. 1070g, 1094)

[72 FR 62027, Nov. 1, 2007, as amended at 73 FR 35493, June 23, 2008]

#### **§ 668.22 Treatment of title IV funds when a student withdraws.**

(a) *General.* (1) When a recipient of title IV grant or loan assistance withdraws from an institution during a payment period or period of enrollment in which the recipient began attendance, the institution must determine the amount of title IV grant or loan assistance that the student earned as of the student's withdrawal date in accordance with paragraph (e) of this section.

(2)(i) Except as provided in paragraphs (a)(2)(ii) and (a)(2)(iii) of this section, a student is considered to have withdrawn from a payment period or period of enrollment if—

(A) In the case of a program that is measured in credit hours, the student does not complete all the days in the payment period or period of enrollment that the student was scheduled to complete;

(B) In the case of a program that is measured in clock hours, the student does not complete all of the clock hours and weeks of instructional time in the payment period or period of enrollment that the student was scheduled to complete; or

(C) For a student in a nonterm or nonstandard-term program, the student is not scheduled to begin another course within a payment period or period of enrollment for more than 45 calendar days after the end of the module the student ceased attending, unless the student is on an approved leave of absence, as defined in paragraph (d) of this section.

(ii)(A) Notwithstanding paragraph (a)(2)(i)(A) and (a)(2)(i)(B) of this section, for a payment period or period of enrollment in which courses in the program are offered in modules—

(I) A student is not considered to have withdrawn if the institution obtains written confirmation from the student at the time that would have